

# **EXHIBIT 2**

**Exhibit E – Order Preliminarily Approving Settlement**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

JAMES SCOTT, SUE SCOTT, STEPHEN )  
ST. LOUIS, and ELLEN ST. LOUIS, )  
on behalf of themselves and )  
all others similarly situated, )

Plaintiff, )

v. )

FIRST AMERICAN TITLE )  
INSURANCE COMPANY, )

Defendant. )

Civil Action No. 1:06-cv-286-JD

**[PROPOSED] ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION STIPULATION OF SETTLEMENT**

Pursuant to Fed.R.Civ.P. 23(e), the parties seek an order approving the settlement of this action in accordance with the terms of the Stipulation of Settlement, including Exhibits A through G attached thereto (“Stipulation”). Having read and considered the Stipulation, the Motion for Preliminary Approval of the Class Action Settlement, and having read all of the other pleadings, papers, and filings in this matter,

IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. The Stipulation, including the definitions applicable to the Stipulation, is incorporated by reference into this Order.
2. The terms and conditions of the proposed settlement between plaintiffs James and Sue Scott and Stephen and Ellen St. Louis (the “Named Plaintiffs”), and First American Title Insurance Company (“First American”) appear to be fair, reasonable, and adequate as required by Fed.R.Civ.P. 23(e)(1)(C); the Stipulation and the exhibits thereto are preliminarily approved pending the Approval Hearing as provided herein; and the proposed settlement shall be submitted to the Class Members.

3. For the purposes of effectuating this proposed settlement only, the Class is conditionally certified for settlement purposes only, the Named Plaintiffs are conditionally appointed as class representatives authorized to act on behalf of the Class, and OLF is conditionally appointed as counsel for the Class as required pursuant to Fed.R.Civ.P. 23(g) without prejudice to First American's right to contest class certification if the proposed settlement described in the Stipulation is not fully implemented.

4. The Court hereby approves the appointment of OLF to attend to publication of the Summary Notice, mailings to potential Class Members, and administration of this settlement.

5. A hearing shall be held at \_\_\_\_ a.m./p.m. on \_\_\_\_\_, 2009 [at least 120 days after the Preliminary Approval Date], in Courtroom \_\_\_\_\_, United States District Court for the District of New Hampshire, 55 Pleasant Street Concord, New Hampshire 03301, to determine: (i) whether the proposed settlement should be given final approval as fair, reasonable and adequate as required by Fed.R.Civ.P. 23(e)(1)(C) ; (ii) whether a final judgment should be entered as required by the Stipulation and Exhibit F thereto; (iii) whether an incentive award should be made to the Named Plaintiffs as set forth in Section (V)(B)(5) of this Stipulation; and (iv) the amount of OLF's award of attorneys' fees, costs and expenses not to exceed \$83,334. The Approval Hearing is subject to continuation or adjournment by the Court without further notice.

6. The Court hereby approves the Claim Form, Exclusion Form, Settlement Notice, and Summary Notice which are attached as Exhibits A, B, C and G to the Stipulation. OLF shall give notice to the Class as soon as practicable and within 30 days the Preliminary Approval Date by (i) mailing the Settlement Notice, Claim Form and Exclusion Form to each person identified in the Mailing List, by first class mail, postage prepaid, along with an envelope bearing OLF's address for the return of the Claim Form or Exclusion Form, and (ii) having the Summary Notice published in a ¼ page advertisement in the local or sports section of the *New Hampshire Sunday News* for two

consecutive weeks. In the event any such mail is returned as undeliverable OLF shall make one additional attempt to re-mail the returned items using any forwarding address on the returned mail or provided by the United States Post Office. OLF shall also administer the Claim Submittal and Review Process as set forth in Section (V)(E) of the Stipulation.

7. The Court finds that publication of the Summary Notice and mailing of the Settlement Notice as provided for in this Order and the Stipulation constitutes the best notice practicable under the circumstances, constitutes due and sufficient notice of the matters set forth therein to all persons entitled to receive notice, fully satisfies the requirements of due process and Fed.R.Civ.P. 23, and fully and satisfactorily advises potential Class Members of their rights to object to or to exclude themselves from the proposed settlement.

8. The Court approves the Claim Submittal and Review Process as required by the Stipulation. Any Class Member who wishes to receive an Award must timely submit a properly completed and signed Claim Form together with the HUD-1 Settlement Statement on or before \_\_\_\_\_, 2009 [at least 120 days after the Preliminary Approval Date], and must satisfy all of the requirements set forth in Section (V)(E)(3) of the Stipulation. Failure to timely submit the properly completed and signed Claim Form or the Settlement Statement will result in denial of the claim. Incomplete, inaccurate, unsigned, or otherwise insufficient Claim Forms will be denied.

9. Class Members who wish to exclude themselves from the Class must submit an Exclusion Form (whether it be in the form of Exhibit B or any signed writing that provides the signing Class Member's name and address and clearly and unequivocally indicates that the signing Class Member seeks to be excluded from the Class) to OLF postmarked no later than 90 days after the Preliminary Approval Date (and at least 15 days before the Approval Hearing). OLF shall maintain a list of all requests for exclusion and shall file copies thereof with the Court and counsel for First American at least five days before the Approval Hearing.

**10.** All Class Members who do not submit a timely Exclusion Form shall be bound by any final order and judgment, regardless of whether or not they chose to submit a Claim Form, and, as a result, they shall be barred from asserting any claims against Releasees arising from the Released Claims, including, without limitation, the failure to compute or collect premiums for title insurance in accordance with the Reissue Rate, and they shall be conclusively deemed to have released any and all such claims.

**11.** The Court will also consider objections to the proposed settlement at the Approval Hearing. Class Members who wish to object to the proposed settlement must serve and file written notice of their intention to appear and written objections in the form and manner required by the Stipulation and the Settlement Notice. Such written notice of intention to appear and objections must be addressed to the Clerk of the Court, United States District Court for the District of New Hampshire, 55 Pleasant Street, Concord, New Hampshire 03301 ( the “Court Administrator”); must refer to this class action lawsuit, *James Scott, Sue Scott, Stephen St. Louis, and Ellen St. Louis v. First American Title Insurance Company*, Cause 1:06-cv-286-JD; must be filed with the Court Administrator on or before \_\_\_\_\_, 2009, [90 days after the Preliminary Approval Date (and at least 30 days before the Approval Hearing)]; and must be served on counsel for the Parties by the same date.

**12.** OLF shall file an affidavit identifying (i) the persons to whom the Settlement Notice was mailed, and (ii) persons who timely requested exclusion from the Class, within 105 days after the Preliminary Approval Date (and at least 15 days before the Approval Hearing).

**13.** Class Members are hereby enjoined from proceeding with any competing claims against First American that are similar to those that are asserted in this Action.

**14.** The Parties are hereby authorized, without needing further approval from the Court, to adopt such amendments and/or modifications of the Stipulation as are not materially inconsistent with

the terms and conditions of the proposed settlement or this Order and do not limit or impair the rights of Class Members under the proposed settlement.

IT IS SO ORDERED

Dated: \_\_\_\_\_, 2008

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